



APPROVED

KITTERY PORT AUTHORITY

June 5, 2014 Meeting Minutes
Council Chambers, Town Hall

Members Present: Bob Melanson, Barry Bush, Vice Chairman, Kelly Philbrook, Tom Smith, Steve Lawrence

Members Absent: Ray Grenier, Dan Arbo

Staff: Harbormaster Mike Blake

The meeting of June 5, 2014 was called to order at 6: p.m.

1. Pledge of Allegiance
2. Minutes: May 1, 2014
Mr. Bush moved to approve the minutes of May 1, 2014
Ms. Philbrook seconded
Motion carried by all members present
3. Public Segment
 - Milton Hall:
 - Traip Ramp: No organization on Sunday, June 1, people jumping out of boats, out of control. Assistant Harbormaster arrived.
 - Where are speed and wake signs? Mr. Blake: Signs will be installed by June 13.
 - Ghost, Navy experimental boat, had trouble going up channel.
 - New mooring at Eagle Point without mooring marks. Mr. Blake: It is a riparian mooring, and a number will be added.
 - Mike Faller, Public Works Director, Meredith, NH: Explained he owned a boat at Badger's Island East. Since new bridge opened, there are no 'no wake' signs, and people are not paying attention and exceeding headway speed. This is a dangerous situation and will only get worse unless something is done. He has contacted NH DOT and Marine Patrol. Commended Kittery and NH Marine Patrol. NH DOT stated signs will be placed on bridge, and Coast Guard stated personal aids to navigation can be replaced. There is concentrated boat traffic in the two bridge areas and people are ignoring safe passage laws. Suggested a no wake area of 300 yards on either side of and between the two bridges. Asks that both sides start talking to share in and resolve the problem through patrolling, education and fines. Presented a draft letter outlining the issues (Attachment A). He has contacted the Portsmouth Herald to get the word out. Suggested a volunteer group could help patrol by taking names and boat numbers, but not issue summons.
 - Ms. Philbrook: She has had calls regarding the wake issue in the Back Channel, and believes a boat should patrol in the Back Channel.
 - Mr. Lawrence: Wakes coming from the main river are awful and people ignore signage. He called the Harbormaster who arrived and patrolled the Back Channel.
 - Daren LaPierre, Badgers Island Marina: Supportive of Mr. Faller. Two boats caused \$70,000 in wake damage and received a \$500 fine. Patrolling cannot only be done by Kittery Harbormasters, and agrees in a cooperative effort. Offered to donate maintenance for town skiffs used for patrolling.
 - Mr. Lawrence: Perhaps the Coast Guard Auxiliary could help with patrolling around the bridge areas.

- Bion Pike, York: The damage done by those two boats exceeded \$100,000. One person cannot handle or stop the problem. Every agency needs to be on board, working together, and every boat owner needs to write to the Maine and NH Marine Patrol, the Coast Guard and the Port Authority.
- Mr. Melanson: Suggested communicating through the Press Herald and the Harbormaster Web site as well.
- Mike Blake: He would like to speak with Coast Guard, etc. to establish rules for patrolling and areas of no-wake. This information will be provided on the web site.
- Ms. Philbrook: While taking launch fees, educational information could be provided to boaters.

4. Harbor Master Report & Expense/Income YTD

- No-Wake buoys are being deployed, as most of the weights and chains have been put together.
- "New" Harbormaster boat is now in service. Fire pump has new section of suction screen. Lettering and painted stripe was added last week with help from Assistant Harbormaster Paul Bourque. Emergency lights are installed
- Traip Float project has been approved for advertisement through Maine DOT
- Services to the Harbormaster shack are almost complete, water line is yet to be completed.
- Prock Marine is due in Pepperrell Cove June 9.
- Working with PYC to place relocation markers for transient moorings. These will be shifted to the Ft. McClary side.
- Received a USCG report of a 17 foot C/C adrift near the east entrance to the Back Channel, found to be two men drift fishing.
- Patrols have been added to control wakes in the Back Channel by having Assistant Harbormaster Allen Breton utilizing the Harbormaster skiff while he is on duty at Traip. Slow periods, after boats have launched, allow him to take the time to add patrols there.
- Ad will go out early next week to solicit sealed bids for the outgoing Harbormaster boat.

Expense/Income through May 31, 2014

Budget: \$118,850 (requested/revised) Actual budget received: \$108,091.

Revenue: \$111,409

Expenses: \$98,731

Surplus: \$3,300 (anticipated)

5. Marinas Piers & Floats - Public Hearings

- Thomas Ellis, 144 Whipple Rd, Map 10 Lot 3, proposes to construct a 6 x 45 pier with associated gangway and float system. Agent is Zachary Taylor, Riverside Pickering Marine. Mr. Taylor summarized the application to the KPA, NRPA and MDEP. A site walk was conducted, ACOE and Submerged Lands approval have been received, and they are awaiting MDEP approval. Mr. Melanson: This is a tidal not deep water pier.
Milton Hall: The KPA originally approved a 250' commercial dock at this location, which was never built.
No Board comment
Mr. Lawrence moved to approve the application from Thomas Ellis.
Mr. Bush seconded
Motion carried unanimously

- Brian Gregg, 4 Captains Way, Map 71 Lot 1-3, proposes to construct a 3 x 20 seasonal gangway and a 10 x 20 seasonal float located by moorings along the owners 184' approximate frontage on Weir Creek .Agent is Zachary Taylor of Riverside Pickering Marine.
Mr. Taylor: Summarized the application. A site walk was held and the ACOE permit has been submitted. DEP review is not required as it is a seasonal structure.
There was no public comment.
There was no KPA comment
Mr. Lawrence moved to approve the application from Brian Gregg.
Mr. Bush seconded
Motion carried unanimously

Conduct Public Hearing: Rules & Regulations changes to the Isles of Shoals and moorings.
In dialogue with KPA members and communications with the ACOE, the reference to lessees in the Isles of Shoals is recommended to be stricken.

Owen Foye, Isles of Shoals, speaking on behalf of his father, Ed Foye:

After viewing last month's meeting, I was made aware of the Board's rules by Milton Hall. We address the Board's making changes to the waiting list, that the Town of Kittery should not even have due to the new mooring rule at Gossport Harbor. I have met with some members of the board. When first approached I relayed my view as okay about adding a few moorings at Gossport. As a Kittery property payee and a Cedar Island land caregiver, I was led to believe this was all okay. After consideration I, Owen Foye, will not voice my approval for a change in moorings at the Isles of Shoals, even though this change in rules may benefit my family. Nothing is broken, no need to fix. The harbor is lined with moorings on the shore anyway. Any need for a vessel to stay long term at Gossport could simply use a rugged chain and anchor arrangement which could hold a vessel for several nights. Besides, Cedar Harbor is very deep and really not feasible for a mooring field.

Milton Hall: Is Gossport Harbor a federal anchorage? In 2010 Mr. Carson placed it in the FNP.

Mr. Melanson: I believe the breakwaters are in federal jurisdiction, not the harbor. In a June 25, 2012 letter from Jay Clements, ACOE: *The ordinance appears to indicate that only landowners and leasees may obtain a mooring at the Isles of Shoals. Navigable waters around the Isles of Shoals are federal and state waters and therefore open to all. Perhaps it is appropriate to give priority of assignment to landowners but not to leasees. There is nothing in state law that requires you to accommodate leasees. Allowing a leasee to have a mooring would appear to be in direct conflict with Section 3-O - Riparian Mooring Sites. Wouldn't it be more appropriate to establish a priority assignment specifically for the Isles of Shoals? Landowners, non-landowners, and then leasees. It would also be appropriate to establish an Isles of Shoals specific waiting list so that no matter how unrealistic, if a space became available, someone 'from away' might be able to get a mooring at sometime in the future. This does not address whether Gossport is in the FNP. Also, from a May 7 2013 letter: In email correspondence you asked whether mooring spaces at Isles of Shoals may be assigned to non-residents/non-leasees. I admit to not being particularly familiar with the reportedly complex make up of ownership and overlapping jurisdictions out at Isles of Shoals. But if Kittery claims jurisdiction over some of Isles of Shoals waters and if the ordinance specifically states that moorings and other work in those waters is subject to the same rules that apply on the mainland, then I would think riparian property owners as defined by your ordinance (not leasees) would be entitled to a mooring in front of their property to the degree practicable and that any others wishing a mooring would either be accommodated or go on a waiting list. And since state law also presumably applies, a minimum of 10% of those moorings must be for non0residents. The more you can steer away from special exceptions for certain waters and instead, apply your regulations consistently in all your jurisdictional waters, the less arbitrary you*

will appear. It goes without saying that any moorings that are rented out there require a Corps permit.

Mr. Hall: Riparian moorings are subject to the same rules as what applies on the mainland, requiring 100 feet and 20,000 square feet, which would affect Mr. Smith who does not have 20,000 square feet. The draft Shore and Harbor Plan states: *It was also noted that demand for moorings at this location often exceeds supply. It does not appear, however, that the harbor can accommodate additional sheltered moorings.* (p. 19). Also, Lawrence Buzzy asked for 6 transient moorings off Appledore. Are those moorings in place? There is probably only 600 sf left in the harbor area. Rules say all objects must stay back 3 times the length of the boat resulting in no room for lobstering and four anchorages. You can't mix moorings with anchorage. Mr. Smith may have a conflict of interest. He pays \$65 for his land and we pay \$5,000 at Cedar.

Bob Foye, Cedar Island: After the meeting last month, believes that treating Gossport the same as Pepperrell Cove is not accurate. It is a different use. At the Isles of Shoals it is a transient harbor with a high noise level from partying. Additional moorings will complicate the situation there. We try to keep the Harbormaster out of the problem, but we need help policing the area. In trying to come up with a number for moorings, I understand you can't put a cap on it. Without a cap, the moorings could be increased over the years. A definite number of moorings is needed that makes sense to everybody.

Steve Lawrence: Read testimony from Jay Gingrich, Portsmouth Scuba

After much consideration, I feel that adding any great number of moorings at Gossport would clog and spoil an otherwise beautiful and serene harbor. I say this as a resident of Appledore who has for many years witnessed the congestion and mayhem that has occurred on the New Hampshire side of the harbor.

Mr. Gingrich was upset with the partying, rafting up of boats, and dumping of raw sewage. Tom Allen was concerned that if Appledore sells, this problem will increase. The Foyes are also concerned.

Public Hearing closed at 7:05 p.m.

Mr. Lawrence: The way the rules are written, goes against state law with regard to lot size. Don't think it should go forward and should remain the way it is.

Ms. Philbrook: Agrees with Mr. Foye. The moorings at Isles of Shoals will be destination moorings, not moorings to safely keep your boat. Supportive of a cap. The Town should consider rental moorings in the area. People believe there is a conflict of interest with Mr. Bush and Mr. Smith as relatives would benefit from this change to the Rules, and they should consider withdrawing their vote from consideration.

Mr. Melanson: Motivation in assigning moorings needs to be consistent. Was a final number ever discussed in meetings with the interested parties?

Mr. Blake: There were 5 or 6 people on the list and some at the meeting that would benefit from moorings. Discussion tonight is different from prior discussions. There has not been a rush for moorings. People have been paying to remain on the wait list.

Mr. Bush: Riparian mooring is based on frontage and lot size. These moorings are not riparian. Lessee language was included to accommodate the Shoal's Marine Lab at Appledore. He does not believe the Star Island moorings exist. Moorings are assigned by the Harbormaster, and he has the authority to move and limit the number of moorings for safety. This proposed rule change can be discussed further to reach a consensus.

Bob Foye: He is concerned the KPA can override the decision making authority of the Harbormaster.

Mr. Melanson: Historically, the Harbormaster has the jurisdiction and duty to handle mooring assignments, not the KPA.

Mr. Bush moved to continue this item
Mr. Smith seconded
Motion carried unanimously

Mr. Hall: Referenced minutes of 11-4-93:

The Harbormaster will come before the Board anytime a new mooring is to go into an area.

When going into new areas, the Harbormaster requests permission from the Board for a certain number to be placed in certain locations.

This came up when Bion was placing moorings at Ft. McClary and had to stop.

6. Pepperrell Pier Project Status

Harbormaster Blake: Suggested using the main float under the existing short ramp for the fishermen's use. The Baker & Assoc. schematic shows it will fit. This will add a 18'x30' float to the BIG project, giving fishermen continued use of a short ramp to slide their traps. Because of the increased cost in the project, changes were made. It was not the intent to ignore the needs of the fishermen. This change will require ACOE and MDEP permits, and reception so far seems positive. Awaiting a CAD so the board can see what the project will look like and then forward to review authorities. Moorings will be moved and transient moorings added, in time.

Dick Draper, Kittery Point: Appreciated the Harbormaster's efforts in this regard. When will this be done? If not this year, it may not get done. Is the new facility only for transient use? Will fishermen still have access, as was the original intent. He will continue to push to make sure fishermen have appropriate access to this facility.

Mr. Melanson: If Arel Gorneau, MDOT, accepts the proposed changes, it still must go through state and federal review, and this will take time.

Mr. Bush: Transient means you come and go.

Ms. Philbrook: The state and feds are well aware of the covenants for use of this facility.

Bion Pike: The purpose of the grant was to provide for fishermen and transient boaters, with separate spaces to operate, as revenue generators for the town. The additional float will not be part of the BIG project funding, with no restrictions, providing a spot for fishermen;

7. Wave Attenuation Project - Letter sent May 5, 2014 indicating Kittery's interest in dredge spoils. Wright-Pierce will provide the feasibility study.

8. Shore & Harbor Plan - No discussion

9. New and Old Business

Mr. Lawrence: The wake issue will be a huge job for the Harbormasters.

Ms. Philbrook: Complaints about the 'no dinghy tie up' painted on harbormaster shack and volunteered to stencil a sign. Harbormaster agreed.

Mr. Melanson: A condominium subdivision is proposed at Old Armory Way to include a 12 slip marina. He recommends the Port Authority reviews concurrently with the Planning Board. Any KPA approval can be contingent upon Planning Board approval. Discussion followed regarding the application review process by the Planning Board and the KPA.

Mr. Bush: We have no official application before the KPA and he would do so at his own risk.

Mr. Smith: What is status of the Fishermen's Advisory Committee? Ms. Philbrook: She remains in contact with fishermen, but there are no formal meetings. Members originally included Ed Foye, Dave K., Steve Lawrence and Bion Pike. They did not want to meet regularly, but wanted someone to contact to voice their concerns. If there are concerns presented to her, she brings them to the KPA, whether they are brought by the Advisory Committee or not.

Mr. Smith: Will the float idea presented by Harbormaster Blake be engineered? Mr. Melanson: It will be, by Wright-Pierce.

Harbormaster Blake: Voiced exception to the negative comments by Milton Hall regarding the incidents at Traip launch, noting it is easy to find fault when you have time to do it. Alan Breton has taken his own time to make Traip safer, has provided safety education, collected fees, and does a fantastic job in everything he does. Mr. Lawrence concurred.

10. Adjourn
Ms. Philbrook moved to adjourn
Mr. Bush seconded
Motion carried unanimously

The Meeting of the Kittery Port Authority held June 5, 2014 ended at 7:59 p.m.
Submitted by Jan Fisk, June 23, 2014

Attachment A

DRAFT

June 2, 2014

Commissioner Clements
NH Department of Transportation
Concord, NH 03305

Dear Commissioner Clements:

The Kittery Port Authority has been actively patrolling the waterfront around the Memorial Bridge. Since the replacement of the bridge and the R.N.A. that is no longer in effect, we have seen speeds increase under the bridge. This is causing damage to the Marinas, boats, docks and shorefront properties.

We are requesting that signage be replaced on the bridge that is clearly visible and states "NO WAKE -- HEADWAY SPEED ONLY". This is IMPERATIVE for us to be more effective in promoting safe navigation around this area, while protecting our citizens and shorefront properties from further damage.

The Kittery Point Authority is reaching out to the other agencies from NH and Maine to help us take a proactive approach in slowing vessel speeds down to headway speeds. The more that we can communicate and work together, the more effective we will all be.

We would appreciate it if you could get back to us as to when the signage will be replaced on the new Memorial Bridge. Thank you for your help and cooperation.

Sincerely,

KITTERY PORT AUTHORITY

CC: NH Marine Patrol-Captain Tim Dunleavy
NH Port Authority – Geno Marconi
USCG-Brian Gilda
Maine Marine Patrol
Island Marine Services-Daren Lapierre
Harbor Place – Steve Root
Mike Faller, 319 Meredith Neck Road, Meredith NH 03253